

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
1:10cv275**

**W. KENNETH COSTANZO; DAVID  
A. GREFE AND WIFE LISA M.  
GREFE (husband and wife); CARL W.  
COLEMAN; ROBERT F. COLEMAN  
and wife MARY ANN COLEMAN; and  
182 INVESTMENTS, LLC,**

**Plaintiffs,**

**v.**

**SYNOVUS FINANCIAL CORP., d/b/a  
NATIONAL BANK OF SOUTH  
CAROLINA; and NBSC  
CORPORATION,**

**Defendants.**

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**ORDER**

Pending before the Court is Defendants' Motion to Dismiss [#11]. Defendants removed this case from the Superior Court of Henderson County and, subsequently, moved to dismiss the Complaint. After Defendants moved to dismiss Plaintiffs' Complaint, Plaintiffs filed an Amended Complaint [#16]. The filing of an amended complaint supercedes the original complaint and renders it void of any legal function in the case. Young v. City of Mount Ranier, 238 F.3d 567, 572 (4th Cir. 2001). Accordingly, the Court **DENIES as moot** Defendants' Motion to Dismiss [#11].

Moreover, from a review of the pleadings in the this case, it appears that

Plaintiffs may have asserted claims pursuant to the Interstate Land Sales Full Disclosure Act (“ILSA”) in its Complaint. The ILSA, however, prohibits the removal of a case unless the United States or any officer or employee of the United States in his official capacity is a party. 15 U.S.C. § 1719. It does not appear that the United States or any officer or employee is named as a party to this action. As such, the Court **DIRECTS** Defendants to file a memorandum, not to exceed ten (10) pages, addressing whether remand is required in this case under the ILSA. Defendants shall have until April 15, 2011, to file their memorandum. Plaintiffs shall have until April 29, 2011, to file a response, not to exceed ten (10) pages. Defendants shall have until May 6, 2011, to file a Reply, not to exceed five (5) pages.

Signed: April 1, 2011

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Dennis L. Howell  
United States Magistrate Judge

